

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION  
1:11cv326**

**GREGORY CARTER, et al., )  
Plaintiffs, )  
v. )  
BANK OF AMERICA, N.A., )  
Defendant. )  
\_\_\_\_\_  
)**

**MEMORANDUM AND  
RECOMMENDATION**

Pending before the Court is the Motion to Dismiss [# 36]. Plaintiffs Christopher Cruz, Donna Panarello, John Michael Park, Penelope Park, David A. Sanders, Kimberly K. Sanders, Keith Behrens, Michelle Behrens, Robert S. Burt, Michael Craig, Susan Craig, Joseph Grusser, Cathy Grusser, Edith L. Hansen, Kenneth Kosco, Oliver Morard, Linda Morard, John Sebastiano, Laurie Sebastiano, Stephen Shoemaker, and Karen Shoemaker (“Moving Plaintiffs”) move to dismiss their previously severed claims without prejudice pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.

Pursuant to the Court’s prior Order, the Court severed the claims of Plaintiffs and directed Plaintiffs that they must each pay the filing fee and file a separate complaint. (Order, Jun. 8, 2012 at p. 6.) The Moving Plaintiffs have

decided not to file separate actions and move to dismiss their claims without prejudice. Defendant did not file a response to the Motion to Dismiss. Upon a review of the record and the Moving Plaintiffs' motion, the Court recommends that the District Court **GRANT** the motion [# 36] and **DISMISS** the claims of Plaintiffs Christopher Cruz, Donna Panarello, John Michael Park, Penelope Park, David A. Sanders, Kimberly K. Sanders, Keith Behrens, Michelle Behrens, Robert S. Burt, Michael Craig, Susan Craig, Joseph Grusser, Cathy Grusser, Edith L. Hansen, Kenneth Kosco, Oliver Morard, Linda Morard, John Sebastiano, Laurie Sebastiano, Stephen Shoemaker, and Karen Shoemaker without prejudice pursuant to Rule 41(a)(2).

Signed: September 12, 2012

Dennis L. Howell  
Dennis L. Howell  
United States Magistrate Judge



**Time for Objections**

The parties are hereby advised that, pursuant to 28, United States Code, Section 636(b)(1)(C), and Rule 72, Federal Rules of Civil Procedure, written objections to the findings of fact, conclusions of law, and recommendation contained herein must be filed within **fourteen (14)** days of service of same.

**Responses to the objections must be filed within fourteen (14) days of service**

**of the objections.** Failure to file objections to this Memorandum and

Recommendation with the district court will preclude the parties from raising such objections on appeal. Thomas v. Arn, 474 U.S. 140 (1985), reh'g denied, 474 U.S. 1111 (1986); United States v. Schronce, 727 F.2d 91 (4th Cir.), cert. denied, 467 U.S. 1208 (1984).